(2)

No. 91-732

In The

Supreme Court of the United States

October Term, 1991

KAREN SNIDER, Acting Secretary
of the Department of Public Welfare,
Commonwealth of Pennsylvania, et al.,

Petitioners,

v.

TEMPLE UNIVERSITY – OF THE COMMONWEALTH
SYSTEM OF HIGHER EDUCATION, et al.,

Respondents.

**Petition For A Writ Of Certiorari To The
United States Court Of Appeals
For The Third Circuit**

BRIEF IN OPPOSITION OF RESPONDENTS THE HOSPITAL ASSOCIATION OF PENNSYLVANIA AND 130 HOSPITALS

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COUNTER-STATEMENT OF THE QUESTIONS PRESENTED

I. Whether this Court should overrule its own recent decision in *Wilder v. Virginia Hospital Association*, ___ U.S. ___, 110 S. Ct. 2510 (1990) that the Boren Amendment is enforceable in an action brought by health care providers under Section 1983?

II. Whether this Court should review the lower courts' narrow ruling that petitioners violated the disproportionate share requirements of the Social Security Act with regard to one of the respondent hospitals?

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BRIEF FOR RESPONDENTS

The opinions below and the basis of this Court's jurisdiction are set out at pages 1 and 2 of the brief for petitioners (hereinafter Pet. Br.), and the text of the relevant federal statutes appears at Pet. Br. 3-6. This brief in opposition is filed on behalf of respondents, the Hospital Association of Pennsylvania ("HAP") and 130 hospitals, appellees in the case *Hosp. Ass'n of Pennsylvania, et al. v. White, et al.*, No. 90-1206 (3d Cir.) (Pet. App. 3a).[1]

COUNTER-STATEMENT OF THE CASE

This action began in 1988 when the Pennsylvania Department of Public Welfare (hereinafter the "Commonwealth") issued rate notices to acute care hospitals participating in the Medicaid Program.[2] The District Court subsequently determined that those rates violated both the procedural and substantive requirements of the Social Security Act, as embodied in the "Boren Amendment."[3]

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[1] A list of the respondents on whose behalf this brief in opposition is filed, along with the disclosures required by Sup. Ct. R. 29.1, is set out in the appendix to this brief.

[2] The Medicaid Program is a joint federal/state program authorized by Title XIX of the Social Security Act, 42 U.S.C. §§ 1396, 1396(a)-1396(u).

[3] The Boren Amendment sets forth requirements states must meet when setting the rates to which hospitals, nursing and intermediate care facilities are entitled. 42 U.S.C. § 1396a(a)(13)(A). *See also, Wilder v. Virginia Hosp. Ass'n*, ___ U.S. ___, 110 S. Ct. 2510, 2513-2514, n.2 (1990).

Pet. App. 91a-92a. The Third Circuit Court of Appeals affirmed that holding. Pet. App. 27a.

Petitioners do not assert in this Court that the lower court erred in holding that the Commonwealth violated the Social Security Act by failing to make the required findings or by issuing rates which were not "reasonable or adequate." Nor indeed can they.[4] Rather, they seek to insulate their rate making process from judicial review by challenging respondents' right to institute these actions.[5]

PROCEDURAL HISTORY

This case is before the Court on a Petition for a Writ of Certiorari to the United States Court of Appeals for the

[4] For instance, petitioners introduced no evidence to support their claim that their rate setting process complied with the Boren Amendment. *See e.g.* Pet. App. 27a, n.12 ("counsel for DPW insisted repeatedly that DPW had made findings in compliance with [the Boren Amendment]. Despite persistent questioning from the court, however, counsel failed to point to a single specific finding in the record . . . Neither have we found such a finding in the documents and testimony . . . . ").

[5] They also challenge the lower courts' ruling that the Commonwealth violated the disproportionate share requirements of the Social Security Act with regard to one of the respondent hospitals. In the interest of judicial economy, and because they have not received a dispositive ruling on this issue, respondents herein do not address this issue separately. Rather, they join in the arguments asserted by their co-respondents.

Third Circuit. The case before the Court of Appeals consisted of six consolidated appeals,[6] all of which challenged the validity of the Commonwealth's payment to hospitals participating in the Medicaid Program (Pet. App. 13a), and all of which were at different procedural stages, as more fully explained below.

Temple University ("Temple") was the first hospital to file suit in the United States District Court for the Eastern District of Pennsylvania. (C.A. No. 88-06646 (E.D. Pa.)). Shortly thereafter, four additional hospital suits were filed.[7]

All of the hospitals challenged the Commonwealth's compliance with the procedural and substantive requirements of the Boren Amendment. Additionally, those hospitals designated as disproportionate share hospitals pursuant to § 1396a(a)(13)(A) and 42 U.S.C. § 1396r-4 also challenged the Commonwealth's disproportionate share payments.

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[6] The issues raised in *Hosp. Ass'n of Pennsylvania, et al. v. White, et al.*, No. 90-1661 (3d Cir.), on behalf of Sacred Heart Medical Center, are not before this Court. Therefore, the procedural history of that specific appeal will not be discussed herein.

[7] Those cases, listed in the order in which they were filed, are: *Albert Einstein Medical Center, et al. v. White, et al.*, No. 90-1203 (3d Cir.) and C.A. 88-08831 (E.D. Pa.); *Frankford Hospital v. White, et al.*, No. 90-1204 (3d Cir.) and C.A. 88-08927 (E.D. Pa.); *Hahnemann University Hospital, et al. v. White, et al.*, No. 90-1205 (3d Cir.) and C.A. 88-09132 (E.D. Pa.); and *Hosp. Ass'n of Pennsylvania, et al. v. White, et al.*, No. 90-1206 (3d Cir.) and C.A. 88-09848 (E.D. Pa.).

The District Court did not consolidate the various related actions and, instead, proceeded to trial in the *Temple* case alone. Participation by the other hospitals was limited to the filing of supportive amici briefs, although some hospitals also filed motions for summary judgment under their own captions.

On January 24, 1990, the District Court issued its Memorandum and Order, holding that the Commonwealth's Medicaid reimbursement plan:

> 1) was adopted without compliance with the procedural requirements of the applicable federal laws and regulations;
>
> 2) applies payment rates which are arbitrary, and inadequate to meet the costs which must be incurred by efficiently and economically operated hospitals; and
>
> 3) applies rates which fail to adequately take into account the circumstances of hospitals which serve a disproportionate number of low income patients with special needs.

Pet. App. 53a, 91a-92a. The court ordered the Commonwealth to "take all necessary steps to bring the Pennsylvania Medical Assistance Plan into compliance with federal requirements." *Id.*

On February 21, 1990, the District Court awarded interim relief to Temple to prevent the irreparable loss that Temple would otherwise suffer pending the Commonwealth's development of a new state plan. In exercising its equitable powers, the court took great pains "to

establish an interim payment level based upon eliminating only the most obvious and clear-cut inadequacies of the present plan."[8] Pet. App. 97a. *See also* Pet. App. 39a.

Hospitals in the four related cases filed various motions for summary judgment and interim relief. Pet. App. 16a. On March 1, 1990, the District Court entered an order granting permanent injunctive relief[9] in each of those pending cases "for the reasons stated in this court's rulings on interim relief in [*Temple*] (to the extent those reasons apply to all hospitals, without regard to their classification or other individual distinguishing features)." Pet. App. 105a-112a. The Order was "without prejudice to other aspects of the pending applications for additional interim relief, or to further such applications."

On May 16, 1991, after oral argument but before a decision had been rendered by the Court of Appeals, the Commonwealth, HAP, and all hospital respondents entered into a Stipulation of Settlement. Pet. App. 17a, n. 5. Pursuant to the Stipulation, the parties agreed to place in civil suspense all litigation pending before the District Court. *Id.* All hospital respondents except Temple have pending motions for additional relief before the district

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[8] The court's award of increased payments to the hospitals was, in all cases, subject to repayment (or offset against future payments) in the event that the hospitals were not ultimately entitled to them under the Commonwealth's revised Medicaid plan. Pet. App. 28a, 102a.

[9] *See* Pet. App. 33a and n.7 for the Third Circuit's analysis of the proper classification of the relief awarded as permanent injunctive relief.

court.[10] These motions have not yet been resolved, and as a result of the Stipulation, may never have to be resolved.

The Court of Appeals acknowledged the "conditional nature of the settlement" and found that the appeals had not been mooted. Pet. App. 17a-18a. On July 30, 1991, the Court of Appeals affirmed the District Court's orders in the consolidated hospital cases. Pet. App. 1a.

The Petition for Certiorari followed.

REASONS FOR DENYING THE WRIT

Wilder was correctly decided, but even assuming, _arguendo_ that it was wrong, principles of _stare decisis_ dictate against overruling it.

This Court should deny petitioners' invitation to re-examine its decision in *Wilder* that the Boren Amendment is enforceable under 42 U.S.C. § 1983. Certainly, there was no disagreement among the Courts of Appeals prior to this Court's deciding that issue. Each of the federal appellate courts which had previously considered this issue had determined that providers have such a cause of action to enforce the Boren Amendment in federal court.

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[10] Some of these motions seek relief from inadequate disproportionate share payments.

Wilder, ___ U.S. at ___ n.14 and ___ n.16, 110 S.Ct. at 2521 n.14 and 2522 n.16 (citing cases).[11]

We believe it absolutely clear that the *Wilder* decision was correctly decided.[12] However, even assuming, as petitioners do, that this was not the case, principles of *stare decisis* dictate that the Court should not overrule *Wilder* at this time. The words of Justice Brandeis are pertinent here.

> *Stare decisis* is usually the wise policy, because in most matters it is more important that the applicable rule of law be settled than that it be settled right . . . . This is particularly true even where the error is a matter of serious concern, provided correction can be had by legislation . . . .

Burnet v. Coronado Oil & Gas Co., 285 U.S. 393, 406-408 (1932) (Brandeis J. dissenting). *See also Illinois Brick Co. v. Illinois*, 431 U.S. 720, 736-737 (1977), *reh den* 434 U.S. 881 (1977); *Runyon v. McCrary*, 427 U.S. 160, 175 (1976); *Edelman v. Jordan*, 415 U.S. 651, 671 (1974), *reh den* 416 U.S. 1000 (1974).

Petitioners contend that principles of *stare decisis* have less force in this case than in most. However, in making that argument, petitioners mischaracterize the

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[11] The conclusion that *Wilder* was decided correctly is further buttressed by the failure of Congress to change the statute in light of that decision.

[12] Respondents respectfully reserve analysis of the substance of the *Wilder* decision for their brief on the merits, in the event such filing is necessary.

nature of the issue at hand by casting the question as one raising "quasi-constitutional" issues. Pet. Br. at 18. Later, when arguing the merits of the issue, petitioners more accurately describe the question as one of "statutory" construction. Pet. Br. at 19.

Petitioners' confusion notwithstanding, the underlying issue in this case is the proper interpretation of the Social Security Act. This Court has previously recognized that cases arising under Section 1983 which seek enforcement of the Social Security Act are "statutory cases." *Golden State Transit Corp. v. City of Los Angles*, 493 U.S. 103, 118 (1989) (Kennedy, J. dissenting).

In *Golden State Transit*, the Court identified the proper inquiry as follows:

> In all cases, the availability of the § 1983 remedy turns on whether *the statute*, by its terms *or as interpreted*, creates obligations "sufficiently specific and definite" to be within "the competence of the judiciary to enforce", . . . is intended to benefit the putative plaintiff, and is not foreclosed "by express provision or other specific evidence from the statute itself."

Golden State Transit, 493 U.S., at 108 (citations omitted) (emphasis added). Thus, it should be clear that the issues presented here are statutory, and not quasi-constitutional, and that the standard rules of *stare decisis* apply.

A. Statutory precedents should not be overruled absent compelling justification, which petitioners have failed to demonstrate.

Overruling *Wilder* would be an affront to the principle that considerations of *stare decisis* are to be given particularly strong weight in the area of statutory construction because Congress may alter what the Court has done by amending the statute. In constitutional cases, by contrast, Congress lacks this option, and an incorrect or outdated precedent may be overturned only by the Court's reconsideration or by constitutional amendment. *Patterson v. McLean Credit Union*, 491 U.S. 164, 175, n.1 (1989).

Petitioners have failed to meet the high burden which this Court has traditionally imposed on the party asking the Court to reverse itself on an issue of statutory construction. *Patterson*, 491 U.S., at 172 (citing cases). In *Patterson*, the Court identified several circumstances which might justify reversing statutory precedents. None of those circumstances are present in the instant case.

The Court noted the primary reason for reconsidering a statutory interpretation is the intervening development of the law, through either the growth of judicial doctrine or further action taken by Congress. 491 U.S. at 173. There has been no such intervening development of the law in the approximately eighteen (18) months since *Wilder* was decided.

Another circumstance identified by the Court is the situation where a precedent may be a positive detriment to coherence and consistency in the law, either because of inherent confusion created by an unworkable decision, or

because the decision poses a direct obstacle to the realization of important objectives embodied in other laws. *Id.*, citing cases. *Wilder* poses no such detriment. It has created no confusion. Nor has it posed a direct obstacle to the realization of important objectives. Rather, it simply affirmed the rulings of every federal appellate court that had considered the issue.

The final justification cited in *Patterson* for overruling statutory precedent is simply not applicable to *Wilder*. "[A] precedent becomes more vulnerable as it becomes outdated and after being 'tested by experience, has been found to be inconsistent with the sense of justice or with the social welfare.' " *Id.* (citations omitted). A decision less than two years old can hardly be considered outdated or tested by experience.

In the short time since *Wilder* was decided, there has been no controversy or confusion surrounding the *Wilder* holding as it applies to litigation arising under the Boren Amendment. *Compare Afroyim v. Rusk*, 387 U.S. 253, 255-56 (1967) (overruling a ten year old Supreme Court decision that had been decided by a 5-4 vote, described as being "a source of controversy and confusion ever since"); *Continental T.V., Inc. v. GTE Sylvania Inc.*, 433 U.S. 36, 47-49 (1977) (overruling a ten year old Supreme Court decision citing continuing controversy and confusion both in journals and in courts and noting that a number of courts have sought to limit the reach of the earlier decision). Indeed, notwithstanding *Wilder*, the number of Boren Amendment cases has actually declined. Petitioners cite only thirteen Boren Amendment cases against nine states, in contrast to the thirty-one actions pending against eighteen states cited by amici during the *Wilder*

deliberations.[13] Thirteen cases can hardly be classified as a "torrent." Pet. Br. at 26.

As Justice Harlan observed, writing for a unanimous court in *Moragne v. States Marine Lines*, 398 U.S. 375, 403 (1970):

> Very weighty considerations underlie the principles that courts should not lightly overrule past decisions. Among these are the desirability that the law furnish a clear guide . . . ; the importance of furthering fair and expeditious adjudication by eliminating the need to re-litigate every relevant proposition in every case; and the necessity of maintaining public faith in the judiciary as a source of impersonal and reasoned judgments. The reasons for rejecting any established rule must be weighed against these factors.

Petitioners have not identified any compelling reason which, when weighed against the factors enunciated in *Moragne*, compel that *Wilder* be overruled.

In urging this Court to reverse itself and to adopt the minority view in *Wilder*, petitioners ignore the fundamental relationship between the judiciary and the legislature. Simply stated, reversal of *Wilder* at this time would usurp the right and power of Congress to amend the Social Security Act if Congress in fact disagrees with the Court's

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[13] *See* Appendix to the Brief Amici Curiae of the state of Connecticut, joined in by 46 states, including Pennsylvania. The thirteen cases cited here by petitioners and the thirty-one cited in *Wilder* by amici both include the five actions against the Commonwealth before this Court on this Petition.

interpretation of the statute in *Wilder*. Petitioners' complaint that the *Wilder* majority ignored the statutory language of the Social Security Act and "effectively converted the Medicaid Program into an entitlement program . . . for hospitals . . . " (Pet. Br. at 21) is best remedied by Congress, which has full authority to amend the statute if it is dissatisfied with prior judicial interpretations. *Patterson*.

B. Overruling *Wilder* would disrupt the even flow of justice and Congressional legislative activity.

Overruling *Wilder* less than eighteen (18) months after it was decided would undermine the evenhanded, predictable, and consistent development of legal principles, inhibit reliance on judicial decisions, and detract from the actual and perceived integrity of the judicial process. *Payne v. Tennessee*, ___ U.S. ___, 111 S.Ct. 2597, 2609 (1991), *reh den* ___ U.S. ___, 115 L.Ed.2d 1110 (1991). Furthermore, it would usurp the power of Congress, which has the legislative prerogative to amend the Social Security Act if it is dissatisfied with the Court's ruling. *Patterson*.

This deference to the legislative authority to amend the statute is particularly appropriate in the area of Medicaid. As petitioners concede, there has been much legislative activity in the area of Medicaid reimbursement. Pet. App. at 15, n.1, and 34. Congress is now considering two additional bills dealing with Medicaid. *See* H.R. 3595 (approved Oct. 23, 1991 by the House Energy and Commerce Subcommittee by a vote of 16 to 6), and S. 1886 (introduced Oct. 29, 1991 and referred to the Senate

Finance Committee). The Health Care Financing Administration (HCFA) also recently promulgated new Medicaid regulations which relate to Medicaid funding. *See* 56 Fed. Reg. 56132 (Oct. 31, 1991) (interim final rule with comment on provider donations and taxes) and 56 Fed. Reg. 56141 (Oct. 31, 1991) (proposed rule limiting definition of disproportionate share hospitals).

This is not an area where Congress, having acted, has walked away. If indeed the *Wilder* decision caused any of the ills of which petitioners complain, those ills are best cured by Congress and not by judicial reversal of that decision.[14]

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[14] If, notwithstanding the above arguments, the Court feels that *Wilder* should be reexamined, respondents respectfully suggest that this case is not a good vehicle for such action because of the uncertainties occasioned by (1) the parties' settlement, (2) the pending motions which are presently in civil suspense and (3) anticipated Congressional activity amending the Social Security Act.

CONCLUSION

For the foregoing reasons, respondents respectfully request that this Court deny petitioners' Petition for a Writ of Certiorari.

Respectfully submitted,

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Dated: November 27, 1991

RESPONDENTS' RULE 29.1 DISCLOSURES[1]

The Hospital Association of Pennsylvania#; Allegheny Valley Hospital, Allegheny Valley Health System*; The Allentown Hospital, Healtheast, Inc.*; Allentown Osteopathic Medical Center, Community Systems, Inc.*; Altoona Hospital, Central Pennsylvania Health Services Corporation*; J.C. Blair Memorial Hospital#; The Bloomsburg Hospital, Bloomed Corporation*; Braddock Medical Center (formerly known as Braddock General Hospital), Heritage Health Systems, Inc.*; Bradford Hospital#; Brandywine Hospital, Brandywine Health Services, Inc.*; Brownsville General Hospital, Brownsville Health Resources, Inc.*; Bryn Mawr Hospital, Main Line Health, Inc.*; Butler Memorial Hospital, Butler Area Health Resources Development Corp.*; Cannonsburg General Hospital, Vanguard Health System, Inc.*; Carbondale General Hospital#; Carlisle Hospital, Carlisle Hospital and Health Services*; Central Medical Health Services, Inc. d/b/a Central Medical Center and Hospital, Central Medical Health Corporation*; The Chambersburg Hospital, Chambersburg Hospital Health Services*; The Chester County Hospital, The Chester County Hospital Foundation*, Turks Head Health Services, Inc.+, Hospital Home

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[1] For ease of reference, the following symbols have been used to indicate corporate structure:

# indicates no parent or non-wholly owned subsidiary corporation;

* indicates parent corporation;

+ indicates subsidiary corporation; and

@ indicates no parent with one or more subsidiaries

Healthcare and Community Services, Inc.+; Chestnut Hill Hospital, Chestnut Hill Hospital HealthCare*; Children's Hospital of Philadelphia, The Children's Hospital Foundation*; Citizens General Hospital, Citizens General Hospital Group*; Clarion Hospital, Clarion Health Systems, Inc.*; Clearfield Hospital, Clearfield Area Health Services Corporation*; Charles Cole Memorial Hospital#; The Community General Hospital, Reading#; Community General Osteopathic Hospital, Community General Osteopathic Hospital Foundation*; Community Hospital of Lancaster, Lancaster Osteopathic Healthcare Foundation*; Community Medical Center, Community Medical Center Foundation*; Conemaugh Valley Memorial Hospital, Medical Center Hospital Corporation@, JMRI Corporation @, Medical Building of Johnstown, Inc.@, Memorial Preferred Providers, Inc.@; Crozer-Chester Medical Center, Crozer-Keystone Health System*; Delaware Valley Medical Center#; Divine Providence Hospital of Pittsburgh#; Divine Providence Hospital of The Sisters of Christian Charity, Sisters of Christian Charity Health Care Corporation*; Doylestown Hospital, Village Improvement Association*; DuBois Regional Medical Center#; Easton Hospital, Valley Health*; The Ellwood City Hospital#; Ephrata Community Hospital, Ephrata Community Hospital Foundation*; Forbes Health System d.b.a. Forbes Metropolitan Health Center, Forbes Healthmark*; Forbes Health System d.b.a. Forbes Regional Health Center, Forbes Healthmark*; Franklin Regional Medical Center#; Franklin Square Hospital (formerly known as Metropolitan Hospital, Central)#; Frick Community Health Center, Frick Health System*;

Geisinger Medical Center, Geisinger Foundation*; Geisinger Wyoming Valley Medical Center, Geisinger Foundation*; The Gettysburg Hospital, Gettysburg Health Care Corporation*; Gnaden Huetten Memorial Hospital, CMS Hospital Care Corporation@; Good Samaritan Hospital, The Good Samaritan Health Services Foundation and Subsidiaries*; Grand View Hospital, Grand View Hospital Foundation*; Greene County Memorial Hospital#; Greenville Regional Hospital#; Hamot Medical Center, Hamot Health Systems, Inc.*; Hanover General Hospital, Hanover HealthCorp, Inc.*; Harrisburg Hospital, Capital Health System Services*; Hazleton-St. Joseph Medical Center#; Highlands Hospital and Health Center#; Hospital of Philadelphia College of Osteopathic Medicine, Osteopathic Medical Center of Philadelphia*; Hospital of Philadelphia College of Osteopathic Medicine – Parkview (formerly Metropolitan Hospital, Parkview), Osteopathic Medical Center of Philadelphia*; Indiana Hospital, Indiana Healthcare Corporation*; Jameson Memorial Hospital, Jameson Health System, Inc.*; Jeanes Hospital, Anna T. Jeanes Foundation*; Jeannette District Memorial Hospital, Jeannette Health Pace*; Jefferson Park Hospital, Thomas Jefferson University*; Jersey Shore Hospital, Jersey Shore Health Care, Inc.*; Andrew Kaul Memorial Hospital, Andrew Kaul Health System*; John F. Kennedy Memorial Hospital#; Kensington Hospital, Community Health Services Foundation*; The Lancaster General Hospital, The Lancaster General Hospital Foundation*; The Lankenau Hospital, Main Line Health, Inc.*; Lee Hospital, Lee Health Services*,

Walnut Management Corporation+, Johnstown Medical Development Corporation+, TriCounty Ambulatory Care Centers, Inc.+, Lee Health Services Foundation+; Lehigh Valley Hospital Center, Healtheast, Inc.*; The Lower Bucks Hospital, Lower Bucks Health System*, Smith-Kline BioScience Laboratories, Ltd.+; McKeesport Hospital, McKeesport Area Health Care Systems*; Meadville Medical Center, MMC Health Systems, Inc.*; The Medical Center, Beaver, PA., Inc., Consolidated Healthcare Services, Inc.*, The Medical Center HPJV, Inc.+; The Medical College of Pennsylvania, Allegheny Health Services (d.b.a Allegheny Education and Research Foundation)*, MCP Health Care Services, Inc.+; Memorial Hospital, Memorial Health Systems Corporation*; Memorial Hospital of Bedford County#; Mercy Catholic Medical Center, Fitzgerald, Mercy Health Corporation*; Mercy Hospital, Altoona, Sisters of the Holy Family of Nazareth of Western Pennsylvania*, Altoona Family Inc.+; Mercy Psychiatric Institute (formerly St. John's General Hospital), Pittsburgh Mercy Health System, Inc.*, The Mercy Center for Chemical Dependency Services (formerly Brighton Woods Treatment Center, Inc.)+; Methodist Hospital#; Metro Health Center#; Millcreek Community Hospital#; The Milton S. Hershey Medical Center of the Pennsylvania State University#; Monongahela Valley Hospital, Inc., Mon-Vale HealthResources, Inc.*; Montefiore University Hospital (successor by merger to Eye & Ear Hospital, Pittsburgh)#; Montgomery Hospital#; Muhlenberg Hospital Center@, Muhlenberg Realty

Corporation+; North Penn Hospital, North Penn Hospital Foundation*; Northeastern Hospital, Northeastern Hospital Foundation*; Paoli Memorial Hospital, Main Line Health Inc.*; Pennsylvania Hospital, The Contributors to the Pennsylvania Hospital*, Delancey Corporation+, The Counseling Program+; Phoenixville Hospital, Phoenixville Health Care Corp.*; Pocono Medical Center, Pocono Health System*; Pottstown Memorial Medical Center, Pottstown Healthcare Corporation*; Pottsville Hospital & Warne Clinic, Schuylkill Health Care Services, Inc.*; Punxsutawney Area Hospital, Punxsutawney Area Hospital, Inc.*, Jefferson Regional Health Services, Inc.+, Jefferson Imaging Associates, Inc.+; Quakertown Community Hospital, Lifequest*; The Reading Hospital & Medical Center, The Reading Hospital*; Roxborough Memorial Hospital, Roxborough Memorial Health Foundation*; Sacred Heart Hospital, Allentown, Sacred Heart Healthcare Systems*; Sacred Heart Medical Center@, Franciscan Health Services, Inc.+; St. Agnes Medical Center, Franciscan Healthcare Corporation*; St. Francis Medical Center, St. Francis Health System*; St. Joseph Hospital, Inc. (Lancaster), Franciscan Health System*; St. Joseph's Hospital@ (Carbondale), Northern Tier Mobile Services+; St. Joseph Hospital, Reading, Franciscan Health System*; St. Luke's Hospital of Bethlehem, PA, Horizon Health System, Inc.*; St. Margaret Memorial Hospital, St. Margaret Health System, Inc.*; St. Vincent Health Center, St. Vincent Health System*; Sewickly Valley Hospital#; Shadyside Hospital, Shadyside Health Education and Research Corporation ("SHERCORP")*; Sharon General Hospital@, Sharon Preferred

Provider Organization+, SGH Enterprises, Inc.+, Sharon Regional Physician Services+; Southern Chester County Medical Center, Southern Chester County Health Services*; Springfield Hospital (formerly Metropolitan Hospital, Springfield), Crozer-Keystone Health System*; Suburban General Hospital, Norristown, Suburban General Corporation*; Suburban General Hospital, Pittsburgh, Suburban Health Corporation*; Sunbury Community Hospital#; Taylor Hospital, Taylor Hospital Foundation*; Titusville Area Hospital, Titusville Area Health Center, Inc.*; Tyler Memorial Hospital, Tyler Clinic*; Tyrone Hospital#; The Uniontown Hospital, Uniontown Health Resources, Inc.*, The Uniontown Hospital Foundation+; The Washington Hospital, Washington Health Care Services, Inc.*; Wayne Memorial Hospital, Wayne Memorial Health System*; Westmoreland Hospital Association, Westmoreland Health System*; Wilkes-Barre General Hospital, Wilkes-Barre General Health Corporation*; The Williamsport Hospital and Medical Center, North Central Pennsylvania Health System*, Williamsport Area Ambulance Service Corporation+; York Hospital, York Hospital Foundation*.